

Remarks

Claims 73, 93, 107 and 129 are herein amended and claim 130 is cancelled. The subject matter of claim 130 is amended into claims 73, 93, 107 and 129. Support for the amendments is found in claims 92 and 130 and page 20, lines 23-25 and page 23, line 35 – page 24, line 1 of the specification as filed

Upon entry of this Response, claims 73-83, 85-100, 107-110, 112, 129 and 131 are pending.

No new matter has been added, and no new material presented that would necessitate an additional search on the part of the Examiner.

Claims 73-83, 85-91, 107-110, 112, 129 and 131 comply with 35 U.S.C. §103(a)

As a preliminary matter for discussing the rejections under 35 U.S.C. §103(a) of claims, the *Manual of Patent Examining Procedure* (M.P.E.P.) §2141 describes a suitable analysis. The claimed invention should be considered as a whole; the references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination; the references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention; and reasonable expectation of success is the standard with which obviousness is determined. M.P.E.P., §2141, p. 125 (8th Ed. Rev.3, August, 2005); *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986).

Claims 73-83, 85-91, 107-110 and 112 comply with 35 U.S.C. §103(a)

The Office action on p. 4 rejects claims 73-83, 85-91, 107-110 and 112 under 35 U.S.C. §103(a) in view of Checco (U.S. patent number 5,859,898) in combination with Lovett (U.S. patent number 4,450,477) and Sizer et al. (U.S. patent number 6,021,324). Applicant respectfully traverses.

For the convenience of the reader prior to analyzing the cited references, Applicant here reviews the subject matter of independent claims 73 and 107 as here amended.

Claim 73 as here amended is directed *inter alia* to a television messaging gateway for handling messages, the gateway being adapted to operate in conjunction with a television distribution system having a central location connected to a video downstream network constructed to carry video signals and distribute the signals to a plurality of terminals connected

thereto, such that at least one of the terminals is constructed to selectively display the video signal on a television screen, and an upstream network capable of delivering user input signals from a remote location to the central location, such that the television messaging gateway is adapted for operating in conjunction with a messaging server constructed to store and forward messages and is implemented in part at a central location and in part in a user premises, the television messaging gateway having: a message control interface adapted to couple to the messaging server for controlling at least one message therein, the message having address information associated therewith, to associate the message with at least one user, a video output module for generating video frame signals corresponding to the message or a portion thereof, such that the module is adapted to couple to the downstream network for outputting the video frame signals on a television coupled to an addressable terminal; an input device interface adapted to connect to the upstream network for receiving user input signals inputted using a telephone; logic for directing said message between the message control interface and the video output module; and, logic for displaying a super-imposed message waiting indication for the message on a television channel being viewed

Claim 107 as here amended is directed *inter alia* to a method for handling messages having the steps of:

using a telephone, inputting commands to a television messaging gateway, to select at least one message directed to a user;

causing the television messaging gateway to output messages in response to the commands, for outputting the message via a television distribution system on a television set associated with the user, wherein the television is coupled directly or indirectly to the messaging gateway, the television messaging gateway being implemented in part at a central location and in part in the user premises; and,

displaying a super-imposed message waiting indication for the message on a television channel being viewed.

Claims 73 and 107 as here amended are directed respectively to a television gateway and a method in which a subscriber uses a telephone to control and view messages on a television set and which superimposes message waiting indicators on the television screen.

The Supreme Court in *Graham v. John Deere*, 383 U.S. 1 provided an analytical construct to be used when determining whether claims are obvious under 35 U.S.C. §103(a) in

view of the prior art. One aspect of this analytical construct includes characterizing each cited reference, as a background for a legal analysis, prior to analyzing the combination of the references.

Checco (U.S. patent number 5,859,898, issued January 12, 1999)

Checco shows a message system that includes voice or data messages that are left by a user who does not have to be a subscriber and retrieved at the convenience of the recipient. *Checco*, Abstract, lines 1-3, column 8, line 58. A subscriber may connect to the system using a telephone, a computer, a fax machine or a set-top box connected to a television or monitor, preferably accessing the system at a single entry point. *Ibid.*, column 4, lines 24-33. The system preferably requests a userid and password and determines whether the user is a subscriber or a secondary user. The subscriber gets a customer menu and the secondary user gets restricted access according to the user id. *Ibid.*, column 7, lines 19-22 & 30-36. The user providing no userid or password is restricted to uploading messages for the subscribers. *Ibid.* lines 45-47. To leave a message the user issues a request to the system and inputs the message using a calling device. The message is processed by the PARS and forwarded to the data message storage. *Ibid.*, column 8, lines 57-67 thru column 9, lines 1-28. To retrieve a message the subscriber selects a message from the menu on the calling device, the message is retrieved from the data message store, converted to the appropriate format by PARS and delivered to the calling device. *Ibid.*, column 10, lines 49-61.

Thus, *Checco* evaluated as a whole describes a system that accepts requests to leave messages using multiple calling devices and data formats, and displays stored messages on multiple subscriber calling devices. The system restricts user access to content with userid and password combinations.

Nowhere does *Checco* teach or suggest a television messaging that is implemented in part at a central location and in part in the user premises; and, displays a super-imposed message waiting indication for said message on a television channel being viewed, to which claims 73 and 107 as here amended are *inter alia* directed.

Nowhere does *Checco* teach or suggest a messaging control interface for controlling at least one message having address information associating the message with at least one user, a video output module adapted to couple to a downstream network for outputting video frame

signals on a television coupled to an addressable terminal with an input interface adapted to connect to an upstream network for receiving user input signals inputted using a telephone and logic for directing a message between a message control interface and a video output module, to which claim 73 as here amended is *inter alia* directed. That is, nowhere does Checco teach or suggest a system for a person sitting and watching television to automatically receive an email or a telephone call on a television channel being viewed.

Nowhere does Checco teach or suggest a method for handling messages using a telephone, inputting commands to a television messaging gateway, to select at least one message directed to a user, causing messages or a message to be outputted to a television set associated with the user, to which claim 107 as here amended is *inter alia* directed.

In other words, Checco fails to teach or suggest the subject matter of claims 73 and 107 as here amended.

Lovett (U.S. patent number 4,450,477, issued May 22, 1984)

Lovett shows a system that delivers selected information from data banks to individual cable television subscribers through the same system that brings them television programming and that can be displayed on unmodified television sets. Lovett, column 6, lines 26-36.

Lovett's system converts the digital information selected from the databank by the individual user to analog form and transmits that information on a unique frequency corresponding to the particular subscriber's television set. Ibid, column 7, lines 61-66. Lovett shows a system in which the subscriber receives the selected information "[o]nly when the subscriber's television set is tuned to his dedicated UHF information channel." Ibid., column 14, lines 12-14 [emphasis added].

Nowhere does Lovett teach or suggest a television messaging that is implemented in part at a central location and in part in the user premises; and, displays a super-imposed message waiting indication for said message on a television channel being viewed, to which claims 73 and 107 as here amended are *inter alia* directed.

Nowhere does Lovett teach or suggest a messaging control interface for controlling at least one message having address information associating the message with at least one user, a video output module adapted to couple to a downstream network for outputting video frame signals on a television coupled to an addressable terminal with an input interface adapted to

connect to an upstream network for receiving user input signals inputted using a telephone and logic for directing a message between a message control interface and a video output module, to which claim 73 as here amended is *inter alia* directed. That is, nowhere does Lovett teach or suggest a system for a person sitting and watching television to automatically receive an email or a telephone call on the television channel being watched.

Nowhere does Lovett teach or suggest a method for handling messages using a telephone, inputting commands to a television messaging gateway, to select at least one message directed to a user, causing messages or a message to be outputted to a television set associated with the user, to which claim 107 as here amended is *inter alia* directed.

Lovett fails to teach or suggest the subject matter of claims 73 and 107 as here amended and fails to remedy the defects of Checco.

Sizer et al. (US patent number 6,021,324, issued February 1, 2000)

Sizer et al. taken as a whole shows control of premises appliances and reception, storage and retrieval of telephone information via a premises recording unit (Sizer et al., column 1, lines 59-64). This recording unit communicates with household appliances via a wireless packet transmitter which generates a radio, infrared or ultrasonic signal (Ibid., column 2, lines 17-23). Sizer describes "a premises" as a home or office (Ibid., column 1, lines 60-61). A television set connected to the recording unit via a video interface connector port is used to display information stored on the recording unit (Ibid., column 4, lines 44-49).

In Sizer, a premises recording unit answers a phone call from a user and prompts the user for a preprogrammed dual tone multi-frequency (DTMF) sequence (Ibid., column 7, lines 22-27). Based on the preprogrammed DTMF sequence the user activates a signal packet transmitter which sends a packet signal to an appliance controller for a coffee maker or other appliance (Ibid., column 7, lines 26-27). The packet signal includes an address portion which signifies that the coffee maker controller is the proper recipient of the signal packet and a data portion which signifies the desired instructions such as allowing electric current to flow to the coffee maker (Ibid., column 7, lines 28-33). In one example, Sizer shows the packet transmitter operating on a radio frequency between 2.45 GHz to 6.0 GHz on an antenna attached directly to the circuit board. Ibid., column 7, lines 55-60. The appliance controller can also include a transmitter for

transmitting feedback information to the premises recording unit, thus forming a closed loop control system. Ibid, column 8, lines 5-8.

Sizer's system taken as a whole shows a home or office automation system which utilizes recorded telephone information to control an appliance such as a coffee pot by wireless transmission over a single channel.

Nowhere does Sizer teach or suggest a television messaging that is implemented in part at a central location and in part in the user premises; and, displays a super-imposed message waiting indication for said message on a television channel being viewed, to which claims 73 and 107 as here amended are *inter alia* directed.

Nowhere does Sizer show any of a television messaging gateway, a plurality of terminals, a video downstream network, a video upstream network, or a distributed television messaging gateway, having a message control interface for selecting at least one message from a unified messaging server. Therefore Sizer fails to remedy the defects of Checco and Lovett, as shown below.

### Legal Analysis

The ultimate determination of whether an invention would have been obvious under 35 U.S.C. §103(a) is a legal conclusion based on underlying findings of fact. *In re Kotzab*, 217 F.3d 1365, 1369 (Fed. Cir. 2000).

According to a summary of criteria in the M.P.E.P., "[t]o establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure." [emphasis added] M.P.E.P. §2142; *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

A recent decision by the U.S. Supreme Court, *KSR International Co. v. Teleflex Inc.* 550 U.S. \_\_\_\_ (2007), discusses criteria for showing a motivation to combine numerous prior art

references in a determination that a claimed invention is obvious. The U.S. Supreme Court in *KSR* explained that “[t]here is no necessary inconsistency between the idea underlying the TSM [teaching, success, motivation] test and the *Graham* analysis.” *KSR International Co.* 550 U.S. \_\_\_\_ at p. 15. In fact, the court explains “... it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the newly claimed invention does.” *Id.*

This interpretation of *KSR International Co. v. Teleflex Inc.* is confirmed by Guidelines promulgated by the U.S. Patent and Trademark Office and published October 10, 2007 in the Federal Register (vol. 72, no. 195, pp. 57526-57535).

Applicant respectfully traverses the above rejection, and shows below that the facts of the case and the relevant case law indicate that the invention would not have been obvious to one of ordinary skill in the art at the time the application was filed because the underlying facts show that the criteria for a *prima facie* rejection have not been met.

Prior art fails to teach all the subject matter of the claims

As shown above, the M.P.E.P. states that to establish a *prima facie* case of obviousness the prior art reference (or references when combined) must teach or suggest all the subject matter of the claim.

Checco as a whole describes a system accepts requests from multiple devices and data formats and restricts user access to content with user id and password combinations.

Nowhere does Checco teach or suggest a messaging control interface for controlling at least one message having address information associating the message with at least one user, a video output module adapted to couple to a downstream network for outputting video frame signals on a television coupled to an addressable terminal with an input interface adapted to connect to an upstream network for receiving user input signals inputted using a telephone and logic for directing a message between a message control interface and a video output module, to which claim 73 as here amended is *inter alia* directed.

Nowhere does Checco teach or suggest a method for handling messages using a telephone, inputting commands to a television messaging gateway, to select at least one message directed to a user, causing messages or a message to be outputted to a television set associated with the user, to which claim 107 as here amended is *inter alia* directed.

Lovett shows a system that delivers selected information from data banks to individual cable television subscribers through the same system that brings them television programming and that is displayed on unmodified television sets. Lovett, column 6, lines 26-36.

Nowhere does Lovett teach or suggest a messaging control interface for controlling at least one message having address information associating the message with at least one user, a video output module adapted to couple to a downstream network for outputting video frame signals on a television coupled to an addressable terminal with an input interface adapted to connect to an upstream network for receiving user input signals inputted using a telephone and logic for directing a message between a message control interface and a video output module, to which claim 73 as here amended is *inter alia* directed.

Nowhere does Lovett teach or suggest a method for handling messages using a telephone, inputting commands to a television messaging gateway, to select at least one message directed to a user, causing messages or a message to be outputted to a television set associated with the user, to which claim 107 as here amended is *inter alia* directed.

Nowhere does Sizer teach or suggest a messaging control interface for controlling at least one message having address information associating the message with at least one user, a video output module adapted to couple to a downstream network for outputting video frame signals on a television coupled to an addressable terminal with an input interface adapted to connect to an upstream network for receiving user input signals inputted using a telephone and logic for directing a message between a message control interface and a video output module, to which claim 73 as here amended is *inter alia* directed.

Nowhere does Sizer teach or suggest a plurality of terminals to which claim 73 as here amended is *inter alia* directed.

Nowhere does Sizer teach or suggest a television messaging gateway for outputting a selected message via a television distribution system to which claim 107 as here amended is *inter alia* directed.

Nowhere does Sizer teach or suggest a messaging control interface for controlling at least one message having address information associating the message with at least one user, a video output module adapted to couple to a downstream network for outputting video frame signals on a television coupled to an addressable terminal with an input interface adapted to connect to an upstream network for receiving user input signals inputted using a telephone and logic for



directing a message between a message control interface and a video output module, to which claim 73 as here amended is *inter alia* directed.

Most importantly, nowhere does Checco, Lovett or Sizer teach or suggest a television messaging that is implemented in part at a central location and in part in the user premises; and, displays a super-imposed message waiting indication for said message on a television channel being viewed, to which claims 73 and 107 as here amended are *inter alia* directed.

Neither Lovett nor Sizer cures the defects of Checco. Therefore, the combination of Checco, Lovett, and Sizer fails to render obvious the subject matter of claims 73 and 107 as here amended because the prior art references when combined do not teach or suggest all of the subject matter of the claims, as required by M.P.E.P. §2142. Therefore a *prima facie* case of obviousness has not been made.

Further, claims 73 and 107 are here amended to incorporate the subject matter of claim 130 and contain additional subject matter. Claim 130 was not rejected in view of the combination of Checco, Lovett, and Sizer and for this reason also claims 73 and 107 as here amended are not obvious.

Claims 74-83 and 85-91 depend from claim 73 as here amended, and incorporate all of the subject matter of claim 73 and contain additional subject matter. As the combination of Checco, Lovett, and Sizer fails to render obvious the subject matter of claim 73 as here amended, therefore claims 74-83 and 85-91 also are not obvious in view of Checco, Lovett, and Sizer, alone or in any combination.

Claims 108, 110, and 112 depend from claim 107 as here amended, and incorporate all of the subject matter of claim 73 and contain additional subject matter. As the combination of Checco, Lovett, and Sizer fails to render obvious the subject matter of claim 107 as here amended, therefore claims 108, 110, and 112 also are not obvious in view of Checco, Lovett, and Sizer, alone or in any combination.

Claim 109 depends from claim 108 and indirectly from claim 107 as here amended, and incorporates all of the subject matter of claim 107 and contains additional subject matter. As the combination of Checco, Lovett, and Sizer fails to render obvious the subject matter of claim 107 as here amended, therefore claim 109 also is not obvious in view of Checco, Lovett, and Sizer, alone or in combination.

Therefore for these reasons Applicant respectfully requests withdrawal of rejection of claims 73-83, 85-91, 107-110 and 112 as here amended under 35 U.S.C. §103(a).

Claim 92 complies with 35 U.S.C. §103(a)

The Office action on p. 9, paragraph 4, rejects claim 92 under 35 U.S.C. §103(a) in view of Checco (U.S. patent number 5,859,898) in combination with Lovett (U.S. patent number 4,450,477) and Sizer et al. (U.S. patent number 6,021,324), the primary references analyzed above, and further in combination with Wagner et al. (U.S. patent number 6,335,736). Applicant respectfully traverses.

For the convenience of the reader prior to analyzing the additional reference, Applicant here reviews the subject matter of independent claim 92.

Claim 92 is directed *inter alia* to the television messaging gateway of claim 73 as here amended, and is further adapted to generate signals to display on a television screen a progress bar indicating relative progress of an audio or video message being delivered to a terminal. Thus, claim 92 depends from and incorporates all of the subject matter of claim 73 as here amended and contains additional subject matter.

Checco, Lovett, and Sizer are characterized above.

Wagner et al. (U.S. patent number 6,335,736, issued January 1, 2002)

Wagner as a whole, shows a graphical user interface (GUI) for a television set-top box which includes a web browser. See Wagner Abstract. The GUI generates menu screens that are superimposed over conventional television video images, so that the user can view browser graphics generated by the GUI while viewing television images in the background. Ibid.

Wagner shows an interface that provides animated on-screen notifications of the presence of interactive content, such as hypertext links to World Wide Web pages, that may be associated with television content currently being received. Ibid. Wagner specifies, “[a]s will be described below, the GUI includes features which provide relatively seamless transitions between viewing television and interactive content, and which enhance the overall viewing experience.”

[emphases added] Ibid., column 3, lines 14-18.

Nowhere does Wagner teach or suggest a television messaging that is implemented in part at a central location and in part in the user premises, and displays a super-imposed message

waiting indication for said message on a television channel being viewed, to which claim 73 as here amended is *inter alia* directed.

Nowhere does Wagner teach or suggest a messaging control interface for controlling at least one message having address information associating the message with at least one user, a video output module adapted to couple to a downstream network for outputting video frame signals on a television coupled to an addressable terminal with an input interface adapted to connect to an upstream network for receiving user input signals inputted using a telephone and logic for directing a message between a message control interface and a video output module, to which claim 73 is *inter alia* directed. In other words, nowhere does Wagner teach or suggest a system in which a person can use a telephone to control a message and send it to a particular addressed television, in real time, if the system of these claims is turned on.

The combination of Checco, Lovett, and Sizer fails to render obvious the subject matter of claim 73 because the combination of prior art references does not teach or suggest the subject matter of the claims, as required by M.P.E.P. §2142. Claim 92 depends from claim 73, and incorporates all of the subject matter of claim 73 as here amended and is likewise so amended, and contains additional subject matter. Wagner does not cure any of the deficiencies of Checco in combination with Lovett and Sizer. Therefore a *prima facie* case of obviousness has not been made.

As the combination of Checco, Lovett, and Sizer fails to render obvious the subject matter of claim 73 as here amended, therefore claim 92 as here amended also is not obvious in view of Checco, Lovett, Sizer, and Wagner alone or in any combination.

For any of the above reasons, Applicant respectfully requests withdrawal of rejection under 35 U.S.C. §103(a) of claim 92 that depends from claim 73 as here amended.

Claims 93, 99, and 129-130 as here amended comply with 35 U.S.C. §103(a)

The Office action on page 10, paragraph 5 rejects claims 93, 99, and 129-130 under 35 U.S.C. §103(a) in view of Sizer et al. (U.S. patent number 6,021,324) in combination with Krisbergh et al. (U.S. patent number 5,999,970, hereinafter Krisbergh). Applicant respectfully traverses the rejection.

For the convenience of the reader prior to analyzing the cited references, Applicant here reviews the subject matter of present pending independent claims 93 as here amended and 129 as here amended.

Claim 93 as here amended is directed *inter alia* to a television messaging gateway for handling messages, the gateway being adapted to operate in conjunction with a television distribution system having a downstream network constructed to carry signals and distribute the signals to a plurality of terminals connected thereto, such that the television messaging gateway is implemented in part at a central location and in part in a user premises, such that at least one of the terminals is constructed to selectively display an image corresponding to the signal on a television screen, operating in conjunction with an upstream network constructed to deliver user input signals, and further operating in conjunction with a messaging server, the television messaging gateway comprising: an input device interface adapted to couple to the upstream network for receiving input signals; a message control interface responsive to the input signals, for controlling at least one message having address information associated therewith, to associate the message with at least one user; logic for displaying a super-imposed message waiting indication for the message on a television channel being viewed; and, an output module, adapted to generating video frame signals corresponding to the message, the module further being adapted to couple to the downstream network, and constructed to deliver said signal to a terminal corresponding to the address information, for display on a television set coupled thereto, such that the signals cause a progress bar on said television screen to display relative progress of an audio or a video message delivered to the terminal; such that the message control interface is constructed to control the message responsive to the user input signals, such that the user input signals are entered via a telephone.

Claim 129 as here amended is directed *inter alia* to a system for handling messages adapted to operate in conjunction with a television distribution system having a downstream network constructed to carry signals and selectively distribute the signals to a plurality of terminals connected thereto, such that at least one of the terminals is constructed to selectively display an image corresponding to the signal on a television screen, operating in conjunction with an upstream network constructed to deliver user input signals to a central location, the system having: a distributed television messaging gateway, having a message control interface for selecting at least one message from a unified messaging server, the message having address

information associated therewith, to associate the message with at least one user; such that the message control interface is constructed to select the message responsive to the user input signals entered via a telephone, and the system is adapted to feed a video frame signal corresponding to the message into the downstream network; such that the video frame signal is directed to at least one of the terminals, for display on a television set coupled thereto; such that the television messaging gateway is implemented in part at a central location and in part in an user premises, and displays a super-imposed message waiting indication for the message on a television channel being viewed; and, such that the signals cause a progress bar on the television screen to display relative progress of an audio or video message delivered to the terminal.

Below, Applicant characterizes the cited references as a background for a legal analysis.

Krisbergh et al. (U.S. patent number 5,999,970, issued December 7, 1999)

Krisbergh shows an access system and method for providing interactive access to an information source through a television distribution system. Krisbergh Abstract. Access to the internet is provided through a cable television distribution system in Krisberg. Ibid., column 1, lines 10-12.

Krisbergh shows a system in which all terminals on the downstream channel receive all downstream packets. A particular terminal ignores the contents of the downstream packet if the packet's session ID does not correspond to the session ID of the terminal. Ibid., column 10, lines 18-23. If a terminal wishes to initiate a session on the access system, the terminal must listen on the downstream channel for a housekeeping packet, and upon receipt of the housekeeping packet can determine what upstream channels are associated with the downstream channel. Ibid., column 10, lines 31-36. The terminal can then send a session request on one of the upstream channels associated with the downstream channel to which it is assigned. Ibid., column 10, lines 36-38.

Krisbergh shows an access system and a method for providing an interactive access system to an information source such as the internet, E-mail interchange, a "chat room" interchange, the application server itself, or the like through a television distribution system which includes a television distribution network, headend distribution equipment, and a plurality of terminals. Ibid., column 1, lines 46-50 & column 4, lines 62-65. Commands are input to the information source using a keyboard associated with one of the terminals or a remote control.

Ibid., column 8, lines 34-55. Requested information is sent from the information source over the respective downstream channels of the television distribution network via a plurality of set top converters being interfaced to a terminal end. Ibid., column 4, lines 3-8 & 30-37.

Thus, Krisbergh taken as a whole shows a system in which all terminals on the downstream channel receive all downstream packets and and communicate requests to the video server using upstream channels that are separate and distinct from the downstream channel.

Nowhere does Krisbergh teach or suggest a television messaging gateway which is implemented in part at a central location and in part in an user premises, and which comprises logic for displaying a super-imposed message waiting indication for a message on a television channel being viewed; and, wherein video frame signals cause a progress bar on said television screen to display relative progress of an audio or video message delivered to a terminal to which claims 93 and 129 as here amended are *inter alia* directed.

Nowhere does Krisbergh teach or suggest a television gateway comprising a message control interface responsive to input signals for controlling at least one message having address information to associate the message with at least one user and an output module adapted to generating video frame signals corresponding to the message and constructed to deliver the signal to a terminal corresponding to the address information for display on a television set to which claims 93 and 129 as here amended are *inter alia* directed.

Nowhere does Krisbergh teach or suggest a message control interface constructed to control a message responsive to user input signals entered via a telephone to which claim claims 93 and 129 as here amended are directed *inter alia*.

Nowhere does Krisbergh teach or suggest a distributed television messaging gateway to which claim 129 as here amended is *inter alia* directed.

Krisberg fails to teach or suggest a system with which a user uses a telephone to select or otherwise control a message for display on a television associated with a terminal with a particular address.

Sizer is characterized above.

#### Legal Analysis

Prior art must teach all subject matter of the claims

To establish a *prima facie* case of obviousness the prior art reference (or references when combined) must teach or suggest all the subject matter of the claim. M.P.E.P. §2142; *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicant shows below that the combination of Sizer and Krisbergh does not teach or suggest all the subject matter of independent claims 93 and 129 as here amended.

#### Legal analysis of the combination of references

Sizer shows a home automation system wherein a user can input predetermined codes by telephone to control appliances such as a coffee pot and for which caller id information is displayed to a television connected to a premises recording device.

Nowhere does Sizer teach or suggest a television messaging gateway which is implemented in part at a central location and in part in an user premises, and which comprises logic for displaying a super-imposed message waiting indication for a message on a television channel being viewed; and, wherein video frame signals cause a progress bar on said television screen to display relative progress of an audio or video message delivered to a terminal to which claims 93 and 129 as here amended are *inter alia* directed

Nowhere does Sizer teach or suggest a television messaging gateway adapted to operate in conjunction with a television distribution system having a downstream network constructed to carry and distribute signals to a plurality of terminals and which operates in conjunction with an upstream network to which claim 93 as here amended is *inter alia* directed.

Nowhere does Sizer teach or suggest a distributed television messaging gateway to which claim 129 as here amended is *inter alia* directed.

Krisbergh shows a system in which all terminals on the downstream channel receive all downstream packets and a particular terminal will ignore the contents of the downstream packet if the packet's session ID does not correspond to the session ID of the terminal. Krisbergh column 10, lines 18-23.

Krisbergh's system shows a headend server acting as a centralized processor for each of plurality of terminals where terminals may communicate with each other by sending a message on the upstream network to the central server, which then sends the message on the downstream network for reception by the intended terminal. Krisbergh column 9, lines 19-26.

Nowhere does Krisbergh teach or suggest a television messaging gateway which is implemented in part at a central location and in part in an user premises, and which comprises logic for displaying a super-imposed message waiting indication for a message on a television channel being viewed; and, wherein video frame signals cause a progress bar on said television screen to display relative progress of an audio or video message delivered to a terminal to which claims 93 and 129 as here amended are *inter alia* directed

Nowhere does Krisbergh teach or suggest a distributed television messaging gateway to which claim 129 as here amended is *inter alia* directed.

Nowhere does Krisbergh teach or suggest a television gateway comprising a message control interface responsive to input signals for controlling at least one message having address information to associate the message with at least one user and an output module adapted to generating video frame signals corresponding to the message and constructed to deliver the signal to a terminal corresponding to the address information for display on a television set to which claims 93 and 129 as here amended are *inter alia* directed.

Nowhere does Krisbergh teach or suggest a message control interface constructed to control a message responsive to user input signals entered via a telephone to which claims 93 and 129 as here amended are directed *inter alia*.

In other words, neither Sizer nor Krisberg teach or suggest a system by which a user can use a telephone to select or otherwise control a message for display on a television associated with a terminal with a particular address.

The combination of Sizer and Krisberg fails to render obvious the subject matter of claims 93 and 129 because these references when combined do not teach or suggest the subject matter of the claims, as required by M.P.E.P. §2142. Therefore a *prima facie* case of obviousness has not been made.

Claim 99 depends from claim 93 as here amended and is likewise amended and incorporates all of the subject matter of claim 93 and contains additional subject matter. As the combination of Sizer and Krisbergh fails to render obvious the subject matter of claim 93 as here amended, therefore claims 99 also is not obvious in view of Sizer and Krisbergh, alone or in combination.

Claim 130 is herein cancelled.



Applicant respectfully requests withdrawal of rejection of claims 93, 99, and 129-130 as here amended under 35 U.S.C. §103(a).

Claims 94-98, 100, and 131 comply with 35 U.S.C. §103(a)

The Office action on page 12, paragraph 6 rejects claims 94-98, 100, and 131 under 35 U.S.C. §103(a) in view of Krisbergh in combination with Sizer and Krueger et al., U.S. patent number 6,460,075.

Applicant respectfully traverses the rejection.

Independent claims 93 and 129 as here amended are described above.

Claims 94-98 and 100 depend from claim 93 as here amended and are likewise amended, and incorporate all of the subject matter of claim 93 and contain additional subject matter.

Claim 131 depends from claim 129 as here amended and is likewise amended, and incorporates all of the subject matter of claim 129 and contains additional subject matter.

Sizer and Krisbergh are characterized above.

Krueger et al. (U.S. patent number 6,460,075, issued October 1, 2002)

Krueger shows a browser-based email system having a thin client connected to a host mail server. Krueger et al. column 1, lines 65-66. The thin client implements a browser. Ibid., column 1, lines 66-67. The thin client is equipped with a microphone and video input to receive audio and video data which the thin client can capture for inclusion with email messages. Ibid., column 2, lines 5-10.

The system further includes a set-top box having a television tuner and standard network interface devices to enable simultaneous viewing of both television programs and web programming. Ibid., column 2, line 65 – column 3, line 1.

In Krueger's system the clients and servers connect to the Internet via conventional means, such as direct-dial telephone or ISDN (Integrated Services Digital Network). Ibid., column 3, lines 13-15.

Nowhere does Krueger teach or suggest a television messaging gateway which is implemented in part at a central location and in part in an user premises, and which comprises logic for displaying a super-imposed message waiting indication for a message on a television channel being viewed; and, wherein video frame signals cause a progress bar on said television

screen to display relative progress of an audio or video message delivered to a terminal to which claims 93 and 129 as here amended are *inter alia* directed.

Nowhere does Krueger teach or suggest a message control interface constructed to control a message responsive to user input signals entered via a telephone, to which claims 93 and 129 as here amended are *inter alia* directed.

In other words, Krueger fails to teach or suggest the subject matter of claims 93 and 129 as here amended.

### Legal Analysis

To establish a *prima facie* case of obviousness the prior art reference (or references when combined) must teach or suggest all the subject matter of the claim. M.P.E.P. §2142; *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

As shown in the analysis above, the combination of Sizer and Krisbergh fails to render obvious the subject matter of claims 93 and 129 as here amended because the prior art references when combined do not teach or suggest all of subject matter of the claims, as required by the M.P.E.P. §2142.

Krueger does not cure the deficiencies of Sizer and Krisbergh because, like these two references, Krueger does not teach or suggest a television messaging gateway which is implemented in part at a central location and in part in an user premises, and which comprises logic for displaying a super-imposed message waiting indication for a message on a television channel being viewed; and, wherein video frame signals cause a progress bar on said television screen to display relative progress of an audio or video message delivered to a terminal to which claims 93 and 129 as here amended are *inter alia* directed.

Nor does Krueger teach or suggest a message control interface constructed to control a message responsive to user input signals entered via a telephone, to which claims 93 and 129 as here amended are *inter alia* directed.

As Krueger does not correct the deficiencies of Sizer in combination with Krisbergh, therefore a *prima facie* case of obviousness has not been made.

Claims 94-98 and 100 depend from claim 93 as here amended and are likewise amended, and incorporate all of the subject matter of claim 93 and contains additional subject matter. As the combination of Sizer, Krisbergh and Krueger fails to render obvious the subject matter of

claim 93 as here amended, therefore claims 94-98 and 100 also are not obvious in view of Sizer, Krisbergh and Krueger, alone or in combination.

Claim 131 depends from claim 129 as here amended and is likewise amended, and incorporates all of the subject matter of claim 129 and contains additional subject matter. As the combination of Sizer, Krisbergh and Krueger fails to render obvious the subject matter of claim 129 as here amended, therefore claim 131 also is not obvious in view of Sizer, Krisbergh and Krueger, alone or in any combination.

For any of the above reasons, Applicant respectfully requests withdrawal of rejection of claims 94-98, 100, and 131 as here amended under 35 U.S.C. §103(a).

Additional reference cited by Examiner Brown subsequent to December 17, 2008 conversation

Applicants acknowledge with appreciation the several telephone interviews Examiner Brown has granted concerning this application and the claims as here amended. Subsequent to the interview on December 17, 2008, Examiner Brown cited Ferry et al., U.S. patent number 5,805,677, as prior art for the amended claims. Applicants below characterize Ferry and demonstrate Ferry's deficiencies.

Ferry et al. (U.S. patent number 5,805,677, issued September 8, 1998)

Ferry as a whole shows a system and apparatus for receiving information such as caller ID from a single telephone line and converting the telephone information to a video signal for display on a single television. Ferry, Fig. 1. Ferry shows a method and apparatus which process telephone caller information and translate the caller information such as caller ID, voice messaging or call waiting information into a video format for display on a video monitor or televisions screen. Ibid. column 2, lines 30-38. In Ferry's method and apparatus the caller ID information is displayed across the top of the screen in text form or alternately may be placed on the screen of a TV using commercially available picture-in-picture hardware. Ibid. column 9, lines 58-62.

Nowhere does Ferry teach or suggest a television messaging gateway that is implemented in part in a central location and in part in a user premises, to which the subject matter of claims 73, 93, 107 and 129 as here amended is *inter alia* directed.

Nowhere does Ferry teach or suggest a plurality of terminals, to which the subject matter of claims 73, 93 and 129 as here amended is *inter alia* directed.

Nowhere does Ferry teach or suggest a downstream or upstream video network, to which the subject matter of claims 73, 93 and 129 as here amended is *inter alia* directed.

Summary

On the basis of the foregoing reasons, Applicant respectfully submits that the pending claims are in condition for allowance, which is respectfully requested.

If there are any questions regarding these remarks, the Examiners are invited and encouraged to contact Applicant's representative at the telephone number provided.

Respectfully submitted,

A handwritten signature in cursive script, reading "Sonia K. Guterman", is written over a horizontal line.

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